

Case Law Today - November 2010

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California Commission on Peace Officer Standards and Training

Failure to Disclose Evidence to the Defense

with William W. Bedsworth, Appellate Court Justice, State of California
In Uribe, the Court of Appeal reversed a child molestation conviction because the prosecution failed to provide the defense with a videotape of a SART (Sexual Assault Response Team) examination. Justice Bedsworth discusses the case and explains what the obligations are of police officers under Brady v. Maryland. Cases cited: People v. Uribe (2008) 162 Cal. App. 4th 1457; Brady v. Maryland (1963) 373 U.S. 83. (8:45)

Post-Custodial Search of Container Incident to Arrest

with Jeff Rubin, Deputy District Attorney, Alameda County, CA
Discusses a case finding that an officer was not entitled to search a vial attached to a keychain as a search incident to the arrest of a driver for driving on a suspended license where, during the arrest, the keychain was removed from the driver and tossed into the driver's truck but the vial was not retrieved and searched until after the driver was handcuffed and placed into the back of the patrol car. Cases cited: United States v. Maddox (9th Cir. 2010) 614 F.3d 1046; United States v. Robinson (1973) 414 U.S. 218. (12:25)

Search & Seizure: Impound/Inventory Searches

with Daniel McNeerney, Superior Court Judge, Orange County, CA
It is MANDATORY that a law enforcement agency have in place a standardized policy for conducting an inventory search of an impounded vehicle, including the search of closed containers therein. Cases cited: Colorado v. Bertine (1987) 479 U.S. 367; People v. Redd (2010) 48 Cal.4th 691. (7:36)

Miranda and Citizen Interview of Suspect in Custody

with Jeff Rubin, Deputy District Attorney, Alameda County, CA
If the right to counsel has not yet attached, police do not have to *Mirandize* a suspect in custody before allowing or encouraging a citizen to speak with the suspect in an ostensibly private conversation — regardless of whether the citizen is viewed as an agent of the police. Cases cited: People v. Tate (2010) 49 Cal.4th 635; Illinois v. Perkins (1990) 496 U.S. 292. (9:50)

"Use of Force on a 5150"

with Devallis Rutledge, Special Counsel, Los Angeles CO District Attorney's Office
Officers confronting a psychotic cocaine addict, who threatened officers and bystanders with erratic behavior, could use physical force to restrain her and transport her for psych evaluation. Case cited: Luchtel v. Hagemann (9th Cir. 2010) WL 3911282. (6:10)

Overboard Search Warrant Language Violates Constitution

with Jeff Rubin, Deputy District Attorney, Alameda County, CA
A search warrant authorizing the seizure of "any" firearms and gang-related evidence from a residence will be deemed unconstitutionally overbroad where the warrant is based on a suspect assaulting a victim with a *specifically described* firearm and there is no reason to believe the assault was gang-related or that other firearms would be found. Case cited: Millender v. Superior Court (9th Cir. 2010) 2010 WL 3307491. (15:03)